

### **REMARKS**

By this Amendment, Applicants submit herewith a Declaration (Second) Under 37 C.F.R. § 1.131 (hereinafter “the Second Declaration”) in response to the claim rejections under 35 U.S.C. §§ 102 and 103 discussed below. No claims are canceled, amended or added by this Amendment. Claims 24 and 25 were withdrawn from further consideration pursuant to the Response To Restriction Requirement filed June 17, 2003 (Paper No. 4). As a result, claims 1-23 remain pending in the application. The Second Declaration of the inventors establishes that the inventions embodied in at least the independent claims 1, 9 and 21 of the application were conceived and reduced to practice prior to the earliest effective priority dates of the references applied in the rejections. The remaining claims 2-8, 10-20 and 22-23 depend directly or indirectly from the base claims 1, 9 and 21, respectively. Accordingly, the rejections are overcome and must be withdrawn. As a result, the FINAL Office Action must be withdrawn and the pending claims allowed, or rejected on the basis of at least one other reference.

#### **Claim Rejections – 35 U.S.C. § 102**

Pursuant to paragraphs 3 and 4 of the above-referenced Office Action, claims 1-4, 6, 7, 9-12, 15-18 and 20-23 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,542,673 to Holter et al. (“the ‘673 patent”). With respect to independent claim 1, the Examiner asserts that “Holter et al. discloses a ferrule body (304) defining a forward end (304a), and opposed rearward end, and at least one passageway extending between the forward end and the rearward end; and a fiber optic indicia (310) formed on a predetermined portion of a surface of the ferrule, wherein the fiber optic indicia comprises a predetermined pattern associated with data about the fiber optic assembly, herein the data comprises at least one of an optical characteristic and a product characteristic.” With respect to independent claim 9, the Examiner asserts that “Holter et al. discloses a method of marking a fiber optic component including the steps of: establishing a predetermined patter[n] of a fiber optic indicia, wherein the fiber optic indicia is associated with information about the fiber optic component; providing the component for marking; preparing a predetermined portion of the surface of the component for marking; and

marking the predetermined portion of the surface in accordance with the predetermined pattern of the fiber optic indicia.” With respect to independent claim 21, the Examiner asserts that “Holter et al. discloses a method of marking a ferrule including the steps of: establishing a predetermined pattern of a fiber optic indicia, wherein the fiber optic indicia is associated with information about the fiber optic assembly; providing the ferrule for marking; preparing a predetermined portion of a surface of the ferrule for marking; marking the predetermined portion of the surface in accordance with the predetermined pattern of the fiber optic indicia ...”

Applicants respectfully traverse the rejection in view of the Second Declaration of the inventors filed concurrently herewith. The Second Declaration clearly establishes that Applicants conceived and reduced to practice the inventions embodied in at least independent claims 1, 9 and 21 in this country prior to the earliest effective priority date (i.e., May 25, 1999) of the ‘673 patent. The ‘673 patent is a continuation-in-part of U.S. Patent Application No. 09/318,451 filed on May 25, 1999, which issued on June 11, 2002, as U.S. Patent No. 6,404,953 (“the ‘953 patent”). The ‘953 patent is a continuation-in-part of U.S. Patent Application No. 08/819,979 filed on March 13, 1997, which issued on September 14, 1999, as U.S. Patent No. 5,953,477 (“the ‘477 patent”). Thus, the ‘673 patent claims the benefit of priority from the earlier filed ‘953 patent and ‘477 patent. The ‘673 patent also claims the benefit of priority from U.S. Provisional Application No. 60/213,983 filed on June 24, 2000.

The ‘953 patent merely discloses a mask 12 comprising a filter 13 that is positioned adjacent the end of an optical fiber 11. The mask 12 further comprises an identifier space 15 (FIG. 1), 35 (FIG. 3); 45 (FIG. 4); 55 (FIG. 5); and 65 (FIG. 6) “reserved for a micro bar code, magnetic or other identification information that will assist in assuring appropriate alignment and mating of the optical assemblies.” ‘953 patent at column 5, lines 57-60. Beginning at column 5, line 60, the purpose and content of the identifier space is further described as:

For example, the mask dimensions and characteristics could be identified. In addition, the fiber’s core and polarization axes can be identified with respect to the location of the identifier and the mask aperture location, configuration and dimensions. Also, the core dimension and location can be identified. When fiber to fiber connections are made, often testing and aligning can be a time consuming task. Proper information in the identifier space

could minimize the testing burden. Using code in identifier space **15** to reference specific, detailed computer link information would allow for unlimited information about the optical assembly. The identifier information could be located at other locations *on the mask*, but the space is desirably located where it could be used in automating manufacturing systems. If the optical assembly is likely to be end to end connected to another assembly in which subsequent identification is useful, for example as illustrated in FIG. 6, and FIG. 7, an identifier on the edge can be used. (Emphasis added).

The '477 patent *provides no disclosure* of: i) a ferrule comprising a fiber optic indicia formed on a predetermined portion of a surface of the ferrule (i.e., claim 1); ii) a method of marking a predetermined portion of a surface of a component of a fiber optic assembly in accordance with a predetermined pattern of a fiber optic indicia (i.e., claim 9); or iii) a method of marking a ferrule of a fiber optic assembly in accordance with a predetermined pattern of a fiber optic indicia (i.e., claim 21). Based on the disclosures of the '953 patent and the '477 patent, the earliest effective priority date attributable to the subject matter of the '673 patent that is relevant to the inventions of claims 1, 9 and 21 of the present application is the filing date of the '953 patent (i.e., May 25, 1999). In other words, the chain of priority for the disclosure of subject matter that relates to the marking of a fiber optic component of a fiber optic assembly with a fiber optic indicia associated with information about the fiber optic assembly begins with the filing date of the '953 patent and does not extend to the earlier filing date of the '477 patent.

The inventions embodied in at least independent claims 1, 9 and 21 of the present application were completed (i.e., conceived and reduced to practice) in this country or in a NAFTA or WTO member country before May 25, 1999, the earliest effective priority date of the '673 patent. Second Declaration at paragraph 7. The inventions embodied in claims 1, 9 and 21 of the present application are shown and described in an electronic mail communication from an inventor (i.e., Joel C. Rosson) of the subject matter of the pending claims 1-23 dated October 1, 1998 (hereinafter "the Rosson email"), a true and correct redacted copy of which is attached to the Second Declaration as Exhibit A. Second Declaration at paragraph 8.

The Rosson email shows and describes a ferrule comprising a ferrule body defining a forward end, an opposed rearward end (inherent) and at least one passageway extending between

the forward end and the rearward end. The Rosson email further shows and describes a fiber optic indicia (i.e., S15; 98; 362; ZZZZ) formed on a portion of a surface of the ferrule (i.e., the ferrule face) wherein the fiber optic indicia comprises optical characteristic and/or product characteristic data about the ferrule assembly (i.e., fiber mode; ferrule OD; fiber bore concentricity/eccentricity; serialized date code) arranged in a predetermined pattern. Second Declaration at paragraph 9. The Rosson email shows and describes a method of marking a component of a fiber optic assembly with a predetermined pattern of a fiber optic indicia associated with information about the fiber optic assembly by marking a predetermined portion of the surface of the component in accordance with the predetermined pattern of the fiber optic indicia. Second Declaration at paragraph 10. The Rosson email shows and describes a method of marking a ferrule of a fiber optic assembly with a predetermined pattern of a fiber optic indicia associated with information about the fiber optic assembly by marking a predetermined portion of the surface of the ferrule in accordance with the predetermined pattern of the fiber optic indicia. Second Declaration at paragraph 11.

Samples of three (3) prototype ferrules including the inventions embodied in independent claims 1, 9 and 21 of the present application were delivered to one of the inventors (i.e., Paul A. Fleenor) along with a letter from a potential vendor dated February 2, 1999 (hereinafter “the Fleenor letter”), a true and correct copy of which is attached to the Second Declaration as Exhibit B. A magnified view of the end of one of the prototype ferrules attached to the Fleenor letter is attached to the Second Declaration as Exhibit C. Second Declaration at paragraph 12

Exhibits B and C clearly show and describe a ferrule comprising a ferrule body defining a forward end, a rearward end and at least one passageway extending between the forward end and the rearward end. Exhibit C clearly shows a fiber optic indicia (i.e., S15; 98; 362; ZZZZ) formed on a predetermined portion of a surface of the ferrule (i.e., the chamfer) wherein the fiber optic indicia comprises a predetermined pattern associated with data about the fiber optic assembly and wherein the data comprises at least one of an optical characteristic and a product characteristic. Second Declaration at paragraph 13. Exhibits B and C clearly show and describe a method of marking a component of a fiber optic assembly with a predetermined pattern of a fiber optic

indicia associated with information about the fiber optic assembly by marking a predetermined portion of the surface of the component in accordance with the predetermined pattern of the fiber optic indicia. Second Declaration at paragraph 14. Exhibits B and C clearly show and describe a method of marking a ferrule of a fiber optic assembly with a predetermined pattern of a fiber optic indicia associated with information about the fiber optic assembly by marking a predetermined portion of the surface of the ferrule in accordance with the predetermined pattern of the fiber optic indicia. Second Declaration at paragraph 15.

Thus, at least independent claims 1, 9 and 21 of the present application were conceived and reduced to practice prior to the earliest effective priority date of the '673 patent. For at least the reasons stated above, the '673 patent is unavailable to be applied as a prior art reference against independent claims 1, 9 and 21. Thus, the rejection is improper and claims 1, 9 and 21 are patentable *vis a vis* the '673 patent. Claims 2-4, 6 and 7 depend directly or indirectly from patentable base claim 1, and thus, are likewise allowable for at least the same reasons. Claims 10-12, 15-18 and 20 depend directly or indirectly from patentable base claim 9, and thus, are likewise allowable for at least the same reasons. Claims 22 and 23 depend directly from patentable base claim 21, and thus, are likewise allowable for at least the same reasons. Accordingly, Applicants submit that the Second Declaration is effective to overcome the '673 patent as a prior art reference and respectfully request the Examiner to withdraw the FINAL rejection of claims 1-4, 6, 7, 9-12, 15-18 and 20-23 under 35 U.S.C. § 102(e).

Pursuant to paragraph 5 of the above-referenced Office Action, claims 12 and 13 [sic: 13 and 14] stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0003934 to Clark ("the 2002/3934 application"). The Examiner asserts that "Clark also discloses that the indicia used to mark the [fiber optic] component may include applying color or a combination of colors in order to identify the component."

Applicants respectfully traverse the rejection in view of the Second Declaration of the inventors filed concurrently herewith. The Second Declaration clearly establishes that Applicants conceived and reduced to practice the inventions embodied in at least the independent

claims 1, 9 and 21 in this country prior to the earliest effective priority date (i.e., October 29, 1999) of the 2002/3934 application. The 2002/3934 application is a division of U.S. Patent Application No. 09/429,644 filed on October 29, 1999, which issued on August 28, 2001 as U.S. Patent No. 6,282,353 (“the ‘353 patent”) and a division of U.S. Patent Application No. 09/429,641 filed on October 29, 1999 (“the ‘641 application”). Thus, the 2002/3934 application claims the benefit of priority from the earlier filed ‘353 patent and the ‘641 application. Second Declaration at paragraph 16. The 2002/3934 application, the ‘353 patent and the ‘641 application merely disclose a *label* or *sleeve* for protecting one or more optical fiber fusion splices. The label is provided with a unique indicium, such as text, numbers, alphanumerical text, a symbol or symbol combination, bar coding, a pattern, graphics, a shape, a picture, an image, a holographic image, Braille, a signature, a trademark, a color or color combination, a marking, an engraving and/or relief, an icon, a texture and/or data within a memory of an electronic memory device, such as a microchip. Second Declaration at paragraph 17.

As discussed above, the inventions embodied in at least independent claims 1, 9 and 21 of the present application were completed (i.e., conceived and reduced to practice) in this country or in a NAFTA or WTO member country before October 29, 1999, the earliest effective priority date of the 2002/3934 application. Second Declaration at paragraph 18. For at least the reasons stated above, the 2002/3934 application is unavailable to be applied as a prior art reference against independent claims 1, 9 and 21. Thus, the rejection is improper and claims 1, 9 and 21 are patentable *vis a vis* the 2002/3934 application. Claims 13 and 14 depend directly from patentable base claim 9, and thus, are likewise allowable for at least the same reasons. Accordingly, Applicants submit that the Second Declaration is effective to overcome the 2002/3934 application as a prior art reference and respectfully request the Examiner to withdraw the FINAL rejection of claims 12 and 13 [sic: 13 and 14] under 35 U.S.C. § 102(e).

### **Claim Rejections – 35 U.S.C. § 103**

Pursuant to paragraphs 6-8 of the above-referenced Office Action, claims 5, 8 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable (i.e., obvious) over the ‘673

patent. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the optical component of the '673 patent to: locate the indicia within at least about 150 microns from the opening of the at least one passageway; select any suitable material for the making the ferrule; and include any relevant performance information within the markings applied to the optical component.

Applicants respectfully traverse the rejection in view of the Second Declaration of the inventors filed concurrently herewith. The Second Declaration clearly establishes that Applicants conceived and reduced to practice the inventions embodied in at least the independent claims 1, 9 and 21 in this country prior to the earliest effective priority date (i.e., May 25, 1999) of the '673 patent. For at least the reasons stated above, the '673 patent is unavailable to be applied as a prior art reference against independent claims 1, 9 and 21. Thus, the rejection is improper and claims 1, 9 and 21 are patentable *vis a vis* the '673 patent. Claims 5 and 8 depend directly or indirectly from patentable base claim 1, and thus, are likewise allowable for at least the same reasons. Claim 19 depends indirectly from patentable base claim 9, and thus, is likewise allowable for at least the same reasons. Accordingly, Applicants submit that the Second Declaration is effective to overcome the '673 patent as a prior art reference and respectfully request the Examiner to withdraw the FINAL rejection of claims 5, 8 and 19 under 35 U.S.C. § 103(a).

## CONCLUSION

In view of the Second Declaration of the inventors filed concurrently herewith and the foregoing remarks, Applicants respectfully request the Examiner to withdraw the finality of the rejections to the pending claims 1-23 and to reconsider the application. This Amendment is fully responsive to the FINAL Office Action and places the application in condition for immediate allowance. Accordingly, Applicants respectfully request the Examiner to issue a Notice of Allowability for claims 1-23. The Examiner is encouraged to contact the undersigned directly to further the prosecution of any remaining issues, and thereby expedite allowance of the application.

This Amendment AFTER FINAL does not result in more independent or total claims than paid for previously. Accordingly, no fee for excess claims is believed to be due. The Examiner is hereby authorized to charge any fee due in connection with the filing of this response to Deposit Account No. 19-2167. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not already accounted for, such an extension is requested and the fee should also be charged to Deposit Account No. 19-2167.

Respectfully submitted,



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**Dated: June 21, 2004**



**CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8**

I hereby certify that this correspondence, and any attachment thereto, is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP FEE AMENDMENT, COMMISSIONER FOR PATENTS, PO BOX 1450, ALEXANDRIA, VA 22313-1450 on the date indicated below.

Patricia L. Mesuch

Date of Signature

6/21/04

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

FLEENOR et al.

Serial No.: 09/998,465

Filed: November 30, 2001

For: Fiber Optic Component Marking With  
Fiber Optic Indicia

Group Art Unit: 2874

Examiner: WOOD, K.S.

**VIA FIRST CLASS MAIL**  
**Group Art Unit: 2874**  
**Examiner: Kevin S. Wood**  
**10 PAGES (w/ Exhibits)**

Mail Stop Fee Amendment  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION (SECOND) UNDER 37 C.F.R. §1.131 OF INVENTORS**  
**PAUL A. FLEENOR, DENNIS M. KNECHT AND JOEL C. ROSSON**

We, the undersigned inventors of the above-identified patent application, having first been duly warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001), and may jeopardize the validity of the application or any patent issuing thereon, hereby declare and acknowledge the following:

1. We are the joint inventors of the subject matter of claims 1-23 pending in United States patent application Serial No. 09/998,465 (hereinafter “the present application”).
2. Claims 1-4, 6, 7, 9-12, 15-18 and 20-23 of the present application stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,542,673 (“the ‘673 patent”). Claims 12 and 13 [sic: 13 and 14] stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2002/0003934 (“the 2002/3934 application”). Claims 5, 8 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable (i.e., obvious) over the ‘673 patent.
3. The ‘673 patent is a continuation-in-part of U.S. Patent Application No. 09/318,451 filed on May 25, 1999, which issued on June 11, 2002, as U.S. Patent No. 6,404,953 (“the ‘953 patent”). The ‘953 patent is a continuation-in-part of U.S. Patent Application No. 08/819,979 filed on March 13, 1997, which issued on September 14, 1999, as U.S. Patent No. 5,953,477 (“the ‘477 patent”). Thus, the ‘673 patent claims the benefit of priority from the earlier filed ‘953 patent and ‘477 patent. The ‘673 patent also claims the benefit of priority from U.S. Provisional Application No. 60/213,983 filed on June 24, 2000.
4. The ‘953 patent discloses a mask 12 comprising a filter 13 that is positioned adjacent the end of an optical fiber 11. The mask 12 further comprises an identifier space 15 (FIG. 1), 35 (FIG. 3); 45 (FIG. 4); 55 (FIG. 5); and 65 (FIG. 6) “reserved for a micro bar code, magnetic or other identification information that will assist in assuring appropriate alignment and mating of the optical assemblies.” ‘953 patent at column 5, lines 57-60. Beginning at column 5, line 60, the purpose and content of the identifier space is further described as:

For example, the mask dimensions and characteristics could be identified. In addition, the fiber’s core and polarization axes can be identified with respect to the location of the identifier and the mask aperture location, configuration and dimensions. Also, the core dimension and location can be identified. When fiber to fiber connections are made, often testing and aligning can be a time consuming task.

Proper information in the identifier space could minimize the testing burden. Using code in identifier space **15** to reference specific, detailed computer link information would allow for unlimited information about the optical assembly. The identifier information could be located at other locations *on the mask*, but the space is desirably located where it could be used in automating manufacturing systems. If the optical assembly is likely to be end to end connected to another assembly in which subsequent identification is useful, for example as illustrated in FIG. 6, and FIG. 7, an identifier on the edge can be used. (Emphasis added).

5. However, the earlier filed '477 patent *provides no disclosure* of: i) a ferrule comprising a fiber optic indicia formed on a predetermined portion of a surface of the ferrule (i.e., independent claim 1 of the present application); ii) a method of marking a predetermined portion of a surface of a component of a fiber optic assembly in accordance with a predetermined pattern of a fiber optic indicia that is associated with a information about the fiber optic assembly (i.e., independent claim 9); or iii) a method of marking a predetermined portion of a surface of a ferrule of a fiber optic assembly in accordance with a predetermined pattern of a fiber optic indicia that is associated with information about the fiber optic assembly (i.e., independent claim 21).
6. Based on the disclosures of the '953 patent and the '477 patent, the earliest effective filing date attributable to the subject matter of the '673 patent that is relevant to the inventions of the independent claims 1, 9 and 21 of the present application is the filing date of the '953 patent (i.e., May 25, 1999). In other words, the chain of priority for the disclosure of subject matter that relates to the marking of a fiber optic component of a fiber optic assembly with a fiber optic indicia that is associated with information about the fiber optic assembly *begins* with the filing date of the '953 patent (May 25, 1999) and does not extend to the filing date of the '477 patent (March 13, 1997).
7. The inventions embodied in independent claims 1, 9 and 21 of the present application were completed (i.e., conceived and reduced to practice) in this country or in a NAFTA or WTO member country before the earliest effective priority date of the '673 patent (i.e., May 25, 1999) that is attributable to the subject matter of independent claims 1, 9 and 21.

8. The inventions embodied in independent claims 1, 9 and 21 of the present application are described in an electronic mail communication from one of the inventors (i.e., Joel C. Rosson) dated October 1, 1998 (hereinafter “the Rosson email”), a true and correct redacted copy of which is attached hereto as Exhibit A.
9. The Rosson email shows and describes a ferrule comprising a ferrule body defining a forward end, an opposed rearward end (inherent) and at least one passageway extending between the forward end and the rearward end. The Rosson email further shows and describes a fiber optic indicia (i.e., S15; 98; 362; ZZZZ) formed on a predetermined portion of a surface of the ferrule (i.e., “the ferrule face”) wherein the fiber optic indicia comprises a predetermined pattern associated with data about the fiber optic assembly and wherein the data comprises at least one of an optical characteristic and a product characteristic (i.e., fiber mode; ferrule OD; fiber bore concentricity/eccentricity; serialized date code). Thus, at least independent claim 1 of the present application was conceived prior to the earliest effective priority date of the ‘673 patent.
10. The Rosson email shows and describes a method of marking a component of a fiber optic assembly with a predetermined pattern of a fiber optic indicia associated with information about the fiber optic assembly by marking a predetermined portion of the surface of the component in accordance with the predetermined pattern of the fiber optic indicia. Thus, at least independent claim 9 of the present application was conceived prior to the earliest effective priority date of the ‘673 patent.
11. The Rosson email shows and describes a method of marking a ferrule of a fiber optic assembly with a predetermined pattern of a fiber optic indicia associated with information about the fiber optic assembly by marking a predetermined portion of the surface of the ferrule in accordance with the predetermined pattern of the fiber optic indicia. Thus, at

least independent claim 21 of the present application was conceived prior to the earliest effective priority date of the '673 patent.

12. Samples of three (3) prototype ferrules including the inventions embodied in independent claims 1, 9 and 21 of the present application were delivered to one of the inventors (i.e., Paul A. Fleenor) along with a letter from a potential vendor dated February 2, 1999 (hereinafter "the Fleenor letter"), a true and correct copy of which is attached hereto as Exhibit B. A magnified view of the end of one of the prototype ferrules attached to the Fleenor letter is submitted herewith as Exhibit C
13. Exhibits B and C clearly show and describe a ferrule comprising a ferrule body defining a forward end, a rearward end and at least one passageway extending between the forward end and the rearward end. Exhibit C clearly shows a fiber optic indicia (i.e., S15; 98; 362; ZZZZ) formed on a predetermined portion of a surface of the ferrule (i.e., the chamfer) wherein the fiber optic indicia comprises a predetermined pattern associated with data about the fiber optic assembly and wherein the data comprises at least one of an optical characteristic and a product characteristic. Thus, at least independent claim 1 of the present application was reduced to practice prior to the earliest effective priority date of the '673 patent.
14. Exhibits B and C clearly show and describe a method of marking a component of a fiber optic assembly with a predetermined pattern of a fiber optic indicia associated with information about the fiber optic assembly by marking a predetermined portion of the surface of the component in accordance with the predetermined pattern of the fiber optic indicia. Thus, at least independent claim 9 of the present application was reduced to practice prior to the earliest effective priority date of the '673 patent.
15. Exhibits B and C clearly show and describe a method of marking a ferrule of a fiber optic assembly with a predetermined pattern of a fiber optic indicia associated with information

about the fiber optic assembly by marking a predetermined portion of the surface of the ferrule in accordance with the predetermined pattern of the fiber optic indicia. Thus, at least independent claim 21 of the present application was reduced to practice prior to the earliest effective priority date of the '673 patent.

16. The 2002/3934 application is a division of U.S. Patent Application No. 09/429,644 filed on October 29, 1999, which issued on August 28, 2001 as U.S. Patent No. 6,282,353 ("the '353 patent). The 2002/3934 application is also a division of U.S. Patent Application No. 09/429,641 filed on October 29, 1999 ("the '641 application"). Thus, the 2002/3934 application claims the benefit of priority from the earlier filed '353 patent and the '641 application.
17. The 2002/3934 application, the '353 patent and the '641 application disclose a *label* or *sleeve* for protecting one or more optical fiber fusion splices. The label is provided with a unique indicium, such as text, numbers, alphanumeric text, a symbol or symbol combination, bar coding, a pattern, graphics, a shape, a picture, an image, a holographic image, Braille, a signature, a trademark, a color or color combination, a marking, an engraving and/or relief, an icon, a texture and/or data within a memory of an electronic memory device, such as a microchip. See Abstract at lines 1-4 and paragraph 0009.
18. As discussed above, Exhibits A, B and C clearly show and describe that the inventions embodied in at least independent claims 1, 9 and 21 of the present application were completed (i.e., conceived and reduced to practice) in this country or in a NAFTA or WTO member country before October 29, 1999, the earliest effective priority date of the 2002/3934 application.
19. Furthermore, the inventions embodied in at least independent claims 1, 9 and 21 of the present application were known to work for their intended purposes prior to both the

earliest effective priority date of the '673 patent (May 25, 1999) and the earliest effective priority date of the 2002/3934 application (October 29, 1999).

20. The date of issue of the '673 patent is not more than one year earlier than the date of filing of the present application.
18. All statements made herein of our own knowledge are true and all statements made herein on information and belief are believed to be true.
19. We acknowledge that we have been duly warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001), and may jeopardize the validity of the present application or any patent issuing thereon.

Signed and dated on the date indicated below,

By: Paul A. Fleenor  
Paul A. Fleenor

Date: 6/18/04

By: Dennis M. Knecht  
Dennis M. Knecht

Date: 6-18-04

By: Joel C. Rosson  
Joel C. Rosson

Date: 6/18/04

EXHIBIT A  
TO DECLARATION UNDER 37 C.F.R. 1.131 OF INVENTORS  
PAUL A. FLEENOR, DENNIS M. KNECHT AND JOEL C. ROSSON

Joel Rosson

10/01/1998 02:29 PM

To:

cc:

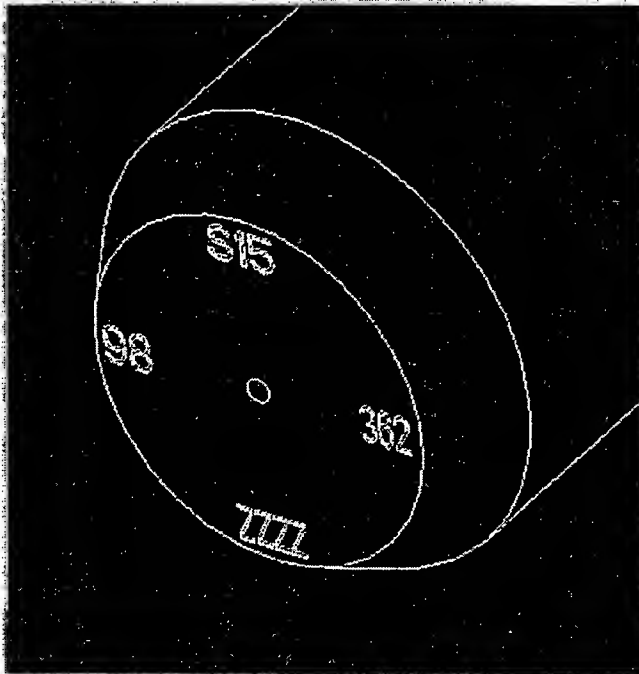
Dennis Knecht/

Fleenor/

Paul

Subject: Connector Serial Number/ Ferrule Marking

The following ferrule marking system is proposed which could kill several birds with one stone.



Our latest tuning system could include a laser marking station in which valuable information is written on the ferrule face. The letters are shown to scale in the above picture. The letters are [REDACTED] tall and would be etched into the ceramic. Due to the radiused tip, the letters are far from the contact footprint of the mated connector.

Information proposed to be written is:

S or M to identify single or multi mode.

A digit to distinguish between 125.0 (Ciena), 125.5 and 126.0 ferrules.

A digit for the actual concentricity measurement.

[REDACTED]

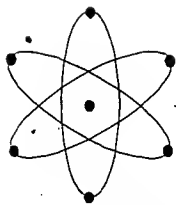
Other info proposed is a full serialized date code which would eliminate the requirement to label the cable assembly. We would need only enough systems to meet the ferrule tuning requirements. [REDACTED]

[REDACTED]

[REDACTED]

BEST AVAILABLE COPY





# Laser Marking Technologies, Inc.

## Laser Marking and Engraving Services



42 Commerce Drive, Batesville, IN 47006 Phone 812-933-0097; FAX 812-933-1099

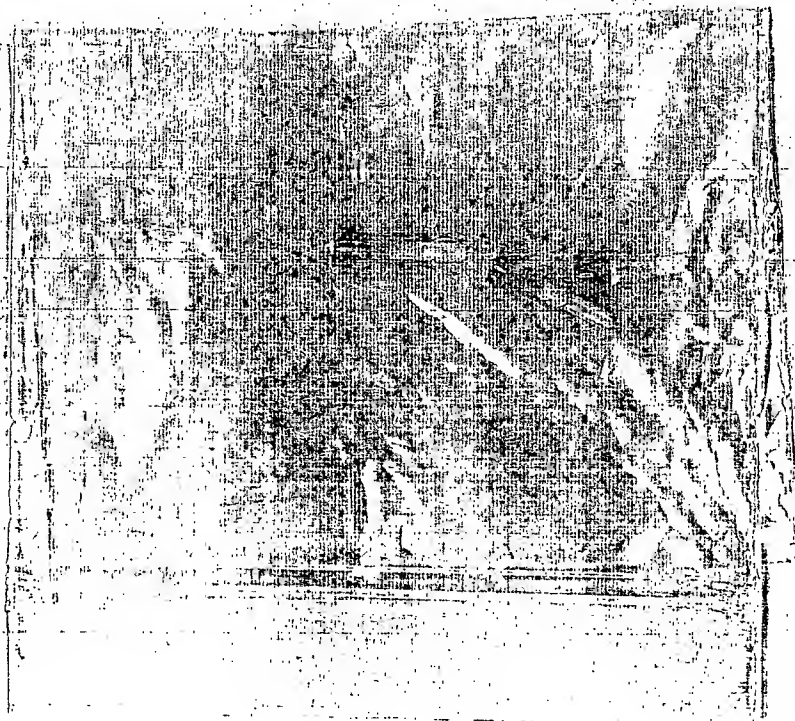
February 2, 1999

Niles C. Davis  
Project Manager

Paul A. Fleenor  
Automation Engineer  
Siecor  
Hickory, NC 28603

Paul:

Please find attached to this letter the three samples that we discussed. Preston *ext. 204* and I will working out a general quote for you in the next couple of days. If you have any questions at any time, please do not hesitate to contact myself or Preston. Thanks for you continued interest in our organization.



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